

Select Committee on Pension Policy

P.O. Box 40914
Olympia, WA 98504-0914
actuary_st@leg.wa.gov

Executive Committee

September 7, 2004

9:30 - 10:00 AM

1:00 - 2:30 PM

Senate Conference Room A-B-C, Olympia

REVISED AGENDA

- (A) Executive Committee Action Before Full Committee Meeting**
 - PFC Subgroup Report
 - Deferred Rate Increases, Matt Smith, State Actuary
 - OSA Budget, Matt Smith
- (B) Action on Today's Issues**
 - Age 65 Retirement
 - Retiree Health Insurance
 - Pension Funding Council Recommendation
- (C) Interruptive Military Service Credit**
 - Laura Harper, Senior Research Analyst Legal
- (D) SCPP Executive Committee Membership**
 - Laura Harper
- (E) Post-retirement Employment Subgroup Report**
 - Representative Bill Fromhold
- (F) 2005 Subgroup: Extended School Year**
- (G) October Committee Meeting Agendas**
- (H) Personnel Issues**

Representative Gary Alexander

Elaine M. Banks

TRS Retirees

Marty Brown, Director*

Office of Financial Management

Senator Don Carlson

John Charles, Director

Department of Retirement Systems

Representative Steve Conway*

Vice Chair

Richard Ford

PERS Retirees

Senator Karen Fraser*

Chair

Representative Bill Fromhold

Leland A. Goeke*

TRS and SERS Employers

Bob Keller

PERS Actives

Corky Mattingly

PERS Employers

Doug Miller

PERS Employers

Glenn Olson

PERS Employers

Representative Larry Crouse

Diane Rae

TRS Actives

Senator Debbie Regala

J. Pat Thompson

PERS Actives

David Westberg*

SERS Actives

***Executive Committee**

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DRAFT MINUTES EXECUTIVE COMMITTEE MEETING

August 17, 2004

The Select Committee on Pension Policy met in Senate Conference Room A-B-C, Olympia, Washington on August 17, 2004.

Executive Committee members attending:

Representative Conway, Vice-Chair
Senator Carlson, alternate for Senator Fraser
Leland Goeke

Other members attending the morning session:

Representative Alexander
Elaine Banks
Richard Ford
Representative Fromhold
Robert Keller
Corky Mattingly
Doug Miller
Glenn Olson

Representative Conway, Vice-Chair, called the meeting to order at 9:30 AM.

- (A) **Today's Full Committee Meeting**
Matt Smith, State Actuary, reviewed the August 17th SCPP Full Committee Agenda.
- (B) **SCPP Rules of Procedure**
Laura Harper, Senior Research Analyst Legal, explained the draft revisions in the "Rules of Procedure." It was recommended that the draft revisions of the Rules of Procedure be recommended to the Full Committee.
- (C) **September Committee Meeting Agendas**
School District Payroll Reporting
Mitch Denning, Alliance of Educational Associations Consultant, asked that the proposal concerning school district payroll reporting be postponed until the 2005 interim. Representative Conway asked that this issue be deleted from the 2004 interim.

Representative Gary Alexander

Elaine M. Banks
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John Charles, Director
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(D) Previous Issues

Age 70½

Laura Harper, Senior Research Analyst Legal, reviewed the “Age 70½” report.

Opt In/Opt Out

Bob Baker, Senior Research Analyst, reviewed the “Opt In/Opt Out” report.

Representative Conway recommended a subgroup be formed to work on these issues.

Representative Fromhold, Leland Goeke and Representative Alexander volunteered.

(E) Post-retirement Employment - Proposals

Representative Fromhold explained the “Post-retirement Employment Bill Comparison” table which was formulated after discussing this issue with various employee and employer representatives, school districts and administrators, Washington Education Association and others. Based on these comments and sessions, it was concluded that Draft D be submitted to the Full Committee for approval. After committee discussions, Representative Conway suggested this issue be continued in the afternoon Executive Committee meeting.

Meeting adjourned at 10:10 AM to attend the Full Committee meeting.

The meeting was called to order at 12:50 PM

Executive Committee members attending:

Representative Conway, Vice-Chair

Senator Carlson, alternate for Senator Fraser

Leland Goeke

J. Pat Thompson, alternate for David Westberg

Other members attending the afternoon session:

Elaine Banks

Richard Ford

Representative Fromhold

Robert Keller

Corky Mattingly

Glenn Olson

(F) Post-retirement Employment

The committee discussed this issue further, recommending that the subgroup work on Draft Version D bill for presentation at the September 7th Executive Committee meeting.

(G) Action on Today's Issues

It was recommended that a subgroup be formed to study Gain-sharing, Purchasing Power and Rule of 90 and report at the October 19th Executive Committee meeting. It was announced that members of the subgroup would be Jim Justin, Lynn Maier, Senator Carlson, Representative Fromhold, Senator Fraser, Elaine Banks and Leslie Main.

(H) Contribution Rate Setting

Matt Smith, State Actuary, reviewed the "Contribution Rate Setting" report. The members discussed the different options. The Vice-chair recommended that a Pension Funding Council subgroup be formed and present their recommendations at the September 7th Full Committee meeting. Members suggested were: Senator Fraser, Representative Conway, Leland Goeke, Pat Thompson, and Glenn Olson.

Steve Nelsen, Executive Director, LEOFF 2 Retirement Board, briefed the members on the LEOFF 2 Board's action regarding adoption of contribution rates.

At the request of the LEOFF 2 Board, Steve Nelsen briefed the members on the LEOFF 2 Board's discussions on Military Service Credit.

(I) September Committee Meeting Agendas

Matt Smith, State Actuary, reviewed the September Full and Executive Meeting Agendas.

It was moved that the Full and Executive Committee agendas be approved.

Seconded

MOTION CARRIED

(J) OSA Budget

Matt Smith, State Actuary, reviewed the OSA budget request. The members recommended that no action be taken on this issue until the September 7th meeting.

The meeting adjourned at 2:20 PM.

Burkhart, Kelly

From: Liszak, Jerry [JLIS461@ECY.WA.GOV]
Sent: Wednesday, September 01, 2004 3:11 PM
To: Office State Actuary, WA
Subject: #62

Select Committee on Pension Policy

Dear Committee Members:

I seek fairness and legislative reparation of what I see as an inequity in the state retirement system. It is my understanding that legislative enactments will be required to resolve this problem. I am one of several Washington Department of Ecology military veterans and possibly hundreds of military veterans throughout state government who served in the Vietnam Theatre of operations and defined as the period beginning August 5, 1964, and ending May 7, 1975. I am writing you to solicit your support of Vietnam Era military veterans who were not able to obtain State of Washington employment before the PERS 1 retirement system ended.

Under the PERS I retirement system, veterans receive up to five years of service credit and retirement pay towards state retirement upon completion of twenty-five years of state service. Military veterans who have retired from active military service do not receive service credit.

Under PERS II and III, veterans receive no service credit or pay towards state retirement upon retirement. I am urging your support of legislation that would recognize Vietnam Era veteran's service in terms of retirement pay. Vested state employees with active military service should receive up to five years of service credit for retirement pay. Retirement requirements relating to age 65 years would remain applicable. Unlike PERS I, state employed veterans would not have to have the twenty-five years of state service. In many cases, these veterans may not have had the opportunity to complete twenty-five years of state service before either retirement or age 65 years.

With the surplus in the retirement pension system, I believe that legislation to support this issue would require no new funds. I believe that the non-military employees and public would support this fairness issue. I look to our local leaders to also support this issue. I ask for your support and initiative in this matter.

Respectfully,

Jerry L. Liszak

9/10/2004

Burkhart, Kelly

From: Harper, Laura
Sent: Friday, September 03, 2004 11:33 AM
To: 'Jerry Lyszack (JLIS461@ECY.WA.GOV)'
Cc: Smith, Matt; Burkhart, Kelly; Granger, Sandra
Subject: #62

Hello Mr. Lyszak. Thank you for visiting the website of the Select Committee on Pension Policy (SCPP). I am a senior policy analyst in the Office of the State Actuary. Our office provides staff support to the SCPP. I was asked by Matt Smith (the State Actuary) to contact you about your e-mail request to the Select Committee on Pension Policy (SCPP) dated September 1, 2004.

As provided in SCPP Rule 8, the Executive Committee of the SCPP sets meeting agendas and recommends actions to be taken by the full committee. Your request will be forwarded to the SCPP and the Executive Committee will determine whether any action is to be taken with respect to your request. As you pointed out in your e-mail letter, a legislative change would be necessary to accommodate your desire for PERS Plan 2 and 3 veterans to receive up to five years' prior military service credit for service in Viet Nam.

As you may have already gathered from visiting the SCPP website, military service credit is a topic that the SCPP is studying during the 2004 interim. In fact, the Executive Committee will be discussing interruptive military service at its meeting on September 7, 2004. This meeting is open to the public and will take place from 9:30 – 10:00 a.m. and 1:00 – 2:30 p.m. in the Senate Conference Room A-B-C in Olympia. You can also track the activities of the SCPP as they relate to military service credit on the SCPP website, where you will find copies of all written materials provided to the SCPP at its meetings.

In addition to having your request considered by the SCPP, please feel free to contact the legislators in your district about your concerns. You can identify your district and your legislators on the Washington Legislature home page, www.leg.wa.gov.

If you have any questions, please do not hesitate to contact me.

*Laura Harper
Senior Research Analyst/Legal
Office of the State Actuary*

harper.laura@leg.wa.gov
360-586-7616

Select Committee on Pension Policy

Military Service Credit

(August 31, 2004)

Issue The issue before the Executive Committee is whether to recommend changes to existing plan provisions governing military service credit.

Staff Laura Harper, Senior Research Analyst/Legal
360-586-7616

Members Impacted All members of Washington's retirement systems may avail themselves of some form of military service credit. "Interruptive" military service credit is available to those who interrupt public employment to serve in the uniformed military branches of the United States. This type of service is governed by the federal Uniformed Services Employment and Re-employment Rights Act (USERRA)¹. The act is described in more detail under the heading "Current Situation."

In addition, two of Washington's closed plans, PERS 1 and WSP 1, allow members with 25 years of service credit to receive up to five service credit years for "prior" military service (military service which took place prior to retirement system membership). This service credit is available at no additional cost to members. Prior military service credit is not available to members of LEOFF 1 or TRS 1, nor is it available to any members of the Plans 2 or 3.

Incidence of Prior Military Service			
	Percent with Military Service	Average Military Service Months	Overall Average Additional Service Years
PERS 1*			
Males	48%	37	1.48
Females	1%	35	0.03
WSP**	43%	32	1.15

Members with 25 years of service may receive up to 5 years of military service credit

*Members of PERS Plan 1 may use certain prior military service as well as interruptive military service

** Members of WSP Plan 1 may use all prior military service as well as interruptive military service

Members of WSP Plan 2 (those commissioned on or after January 1, 2003) may use only interruptive military service

The above table summarizes the incidence of prior military service in PERS 1 and in the WSP Plans. The table below compares the percentages of male and female members in PERS 1 and the WSP.

Plan Membership by Gender*					
	Total	Male		Female	
PERS 1	21,737	9,586	(44%)	12,151	(56%)
WSP	1,035	959	(93%)	76	(7%)

*At September 30, 2002

Current Situation

Interruptive Military Service: Interruptive military service is governed by federal law. At a minimum, public employers must provide the protections specified in the Uniformed Services Employment and Re-employment Rights Act (USERRA). USERRA was signed into law in 1994, with amendments made in 1996, 1998 and 2000. This law provides for the re-employment of individuals who leave employment to serve in the uniformed military branches. Included in USERRA's re-employment rights is the right to restoration of retirement plan benefits.

For employers, the fundamental requirement of USERRA as it relates to retirement plan benefits is to fund the benefits that a re-employed participant did not receive due to qualifying military service. The employee must be treated for vesting and benefit accrual purposes as if he or she had remained continuously employed. Employers do not have to begin making up pension contributions until after the veteran returns to civilian employment with the same employer. Employers may fund makeup contributions over a period of three times the military service period, not to exceed five years. A rehired veteran is not entitled to missed allocations for any lost earnings on makeup contributions.

Generally, under USERRA, rehired veterans have up to three times the period of service - not to exceed five years - to make up missed employee contributions. The amount of makeup contributions is subject to the limits that would have applied during the military service period. No interest is charged on the contributions, because rehired veterans can only be charged the amount they would have been permitted or required to contribute had they remained continuously employed throughout the period of military service. The Washington State Retirement Systems allow a five-year payback period for employee contributions, regardless of the period of military service. An exception to the USERRA payback requirements exists for members of PERS 1 who apply for reinstatement of employment, are refused for reasons beyond their control, and who resume public service within ten years. Such members shall have the military service credited to them at no cost upon resumption of public service as provided in RCW 41.40.170.

Prior Military Service: As stated above, there is an inconsistency with respect to retirement plan members' ability to receive service credit for prior military service. This benefit is only available to members of WSP 1 and PERS 1. All other plan members are only allowed service credit for interruptive military service.

Members of PERS 1 and WSP 1 must have 25 service credit years to be eligible to receive credit for military service prior to retirement plan membership. Total interruptive and prior military service credit cannot exceed five years, and in both plans the members must restore all withdrawn accumulated contributions in order to receive credit for the prior service. No member payments are required for prior military service credit.

History

Military service credit was reviewed by the Joint Committee on Pension Policy (JCPP) in 1988 and by the Executive Committee of the JCPP in 1997. In 1988 military service credit was evaluated as part of a comprehensive analysis of the provisions for granting service credit. Upon completion of its study, the JCPP concluded that the state's policy was not to grant additional service credit for prior military service. In 1997, the JCPP Executive Committee heard an update on military service credit but the issue was not heard by the full committee.

Since 1996, two JCPP bills on military service credit passed in the legislature, and both were to conform Washington law to federal law (USERRA). At least twenty more bills were filed to expand opportunities to acquire military service credit, but none passed.

Due to the war in Iraq there has been a renewed interest in the effects of military service on employee benefits. During the 2004 legislative session, the OSA tracked five non-SCPP bills concerning military service, none of which passed. Two of these bills, HB 2415 and SSB 6071 would have expanded the definition of "veteran" for various purposes. HB 2415 would have expanded the definition of veteran to include a U.S. documented merchant mariner with service aboard an oceangoing vessel operated by the Department of Defense or its agents during the Korean and Vietnam wars. SSB 6071 would have exempted veterans of the Afghanistan conflict and Persian Gulf War II from certain increases in tuition and fees for higher education. Another bill, 2SSB 6578, would have provided up to two years of military leave during which employees of the state would receive one-half of the difference between their normal pay and their combined military pay and allowances.

The remaining two bills, SB 6743 and SB 6492, would have allowed members of TRS 1 with 25 service credit years to receive up to five years of service credit for prior military service. The two bills differed in the amount of contributions members would be required to pay to receive the service credit: SB 6492 required a contribution "as determined by the Director of the Retirement Systems;" and SB 6743 required "six percent of the average earnable compensation for the two highest compensated consecutive years of service for each year of prior military service credited." Currently, no payments are required from members of PERS 1 and WSP 1 who receive credit for prior military service.

Examples

- A. **Prior Military Service:** The following example illustrates how the ability to receive up to five years of prior military service credit can enhance the retirement benefit of a PERS 1 member. A PERS 1 member retiring with 25 years of service credit and an average final compensation (AFC) of \$45,000/year would receive a monthly retirement allowance of \$1,875 (before reductions for optional forms of payment).

$$\frac{2\% \times 25 \text{ years} \times \$45,000}{12 \text{ months}} = \$1,875$$

If that same member also had five years of military service before becoming a state employee, his or her monthly retirement allowance would increase to \$2,250 based on 30 years of service credit instead of 25.

$$\frac{2\% \times 30 \text{ years} \times \$45,000}{12 \text{ months}} = \$2,250$$

- B. **Interruptive Military Service:** The following hypothetical example illustrates how a member who is called into active duty may obtain service credit for interruptive military service. Consider a member of the Washington State Patrol Retirement System (WSPRS) who was hired July 1, 1999 and was called into active service from July 1, 2003 through June 30, 2004 after completing four years of service with WSPRS. This member's salary was \$40,000 when he left employment and he was required to make an employee contribution of 2% of salary during the period of active service. There was no required employer contribution. Assuming that the member is re-employed upon his return from active duty (according to the terms and conditions set forth in USERRA), the member has five years (more generous than USERRA's three years) to pay back the contributions he would have paid had he remained continuously employed. Therefore his total payment obligation is:

$$2\% \times \$40,000 \times 1 \text{ year} = \$800$$

Assuming repayment, the member is treated as if he had been continuously employed and his service credit had continued to accrue while away on active duty. The member's vesting date (based on a five-year vesting period for this plan) will be July 1, 2004. *Note:* the member's payback will vary from plan to plan, as member contribution

rates differ throughout the Washington State Retirement Systems. See the 2004 SCPP Orientation Manual for more information on contribution rates.

Policy Analysis

Prior Service: As noted above, the JCPP concluded in 1988, upon completion of its study of service credit, that the state's policy was not to grant additional (prior) service credit for military service.

Policies that *support* granting prior military service credit in other Washington plans include the following:

- Recognition of Service: Granting military service credit that is either partially or wholly funded by the state would recognize the service rendered by individuals to our country.
- Service in the military might have delayed the beginning of a member's career with the state and deprived the member of the opportunity to earn a better retirement benefit.
- Parity: Prior military service is provided only to the PERS and WSP Plans 1. There has been pressure from members of other systems for similar benefits. RCW 41.50.005(1) sets forth as retirement policy that the retirement systems of the state shall provide similar benefits whenever possible.

The following policies would *oppose* granting prior military service credit in the other plans:

- Cost: Granting additional military service credit to plan members without requiring payment of the full actuarial cost results in additional liabilities. For plans like TRS 1 that are not fully funded, this means additional unfunded liability and a lower funding ratio.
- Granting additional military service credit at little or no cost would provide a benefit for periods when no service was rendered within the plan.

- The last military draft ended in 1973. Since military service is now voluntary, the interruption of a public employee's career to enter the uniformed services prior to entering public employment is voluntary, which can be seen as reducing the need for taxpayers to pay for retirement benefits during such periods.

While a future change in federal policy is always a possibility, there are no official plans in Washington for reinstating the military draft at this time. Congress would have to authorize it, and has shown no interest in taking such a step. Defense Secretary Donald Rumsfeld indicated in March, 2004 that he would not ask Congress to authorize a draft. However, the Selective Service System, the independent federal agency that would organize any conscription, has a special system to register and draft health care personnel ages 20 to 44 if necessary in a crisis. The agency is planning to expand this system to be able to rapidly register and draft computer specialists and linguists, should the need ever arise. Seattle Post-Intelligencer, "Agency Initiates Steps for Selective Draft," March 13, 2004.²

Interruptive Service: With respect to interruptive service, state retirement policy is constrained by the requirements of USERRA. All public employers must meet the minimum requirements of this federal law. However, states have the discretion to go beyond USERRA and grant benefits for the period of interruptive service that are more generous than those available under the act. The goal of USERRA is to treat employees who are called to active duty as if they had been continuously employed. Employers who choose to go beyond USERRA may reward active duty by paying all or part of the contributions that the member would have paid during the period of active duty. They may also provide all or part of the member's salary during the period of active service.

Comparison with other Retirement Systems: The following is a comparison of military service credit provisions in Washington's comparative retirement systems:

Retirement System	Prior Service	Interruptive Service
1. Washington State ³	Prior with 5-year cap in PERS 1 and WSP 1 only at no cost to member; not available in other plans	Interruptive as provided in USERRA*
2. City of Seattle ⁴	Prior with 5-year cap at actuarial cost	Interruptive as provided in USERRA
3. Oregon (PERS and PSRP) ⁵	None	Interruptive as provided in USERRA
4. Public Employee Retirement System of Idaho (PERSI) ⁶	None	Interruptive as provided in USERRA, but at no cost to member unless employer pays <i>full</i> salary while on active duty
5. CalPERS ⁷	Prior with 4-year cap, or Peace Corps and AmeriCorps VISTA with 3-year cap, at actuarial cost	Interruptive as provided in USERRA, but at no cost to member if re-employed within 6 months of discharge
6. CalSTERS ⁸	None	Interruptive as provided in USERRA
7. Colorado PERA ⁹	None	Interruptive as provided in USERRA, but at no cost to member unless employer pays salary while on active duty
8. Florida Retirement System (FRS) ¹⁰	Depending on hire date, prior with 4-year cap is available at statutory cost (% of salary + interest)	Interruptive as provided in USERRA
9. Iowa (IPERS) ¹¹	Prior at actuarial cost	Interruptive as provided in USERRA
10. Minnesota (SRS and TRA) ¹²	Prior at actuarial cost	Interruptive as provided in USERRA
11. Missouri (MOSERS) ¹³	Prior with 4-year cap at statutory cost (in an amount equal to the state contribution) plus interest	Interruptive as provided in USERRA
12. Ohio (OPERS) ¹⁴	Prior with 5-year cap (+an additional 5 years if a POW) at percentage of salary as set by Board (cost cannot be less than 50% of actuarial cost)	Interruptive as provided in USERRA

*An exception exists for members of PERS 1, who may receive interruptive military service credit at no cost pursuant to RCW 41.40.170.

The provisions for interruptive military service credit are relatively consistent due to the requirements of USERRA. A few states have gone beyond USERRA and provided interruptive service at little or no cost. With respect to prior service, there is a wide range of approaches. Some states do not allow service credit for prior military service. Others allow it, but impose limits on the amount of prior service. The cost to members ranges from \$0 to full actuarial cost.

Some employers in some states may pay all or part of a members salary when the member is called for an extended period of active military service. In Idaho, members who are receiving *full* salary during active service must continue their employee contributions in order to continue to receive service credit. The ability to continue to accrue service credit during the period of interruptive service may increase benefits to a survivor in the event that the member dies while on active duty. It may also increase the benefit of a member who is unable to return to employment due to a service-related disability.

Some Washington public employers are voluntarily providing pay differential to retirement system members on military leave. Currently, such income cannot be reported to the DRS as “earnable compensation.” Thus members on military leave cannot continue to accrue service credit while on active duty. Instead, they must wait until re-employment and pay back the member contributions they would have made had they been continuously employed. The LEOFF 2 Board is currently exploring an option for legislation to make military pay differential reportable as “earnable compensation.”

The U.S. Congress is also currently paying some attention to employee benefits for those who are called into active military service. On April 21, 2004 the House of Representatives passed HR 1779, which would allow penalty-free withdrawals from qualified retirement plans for those called into active duty for at least 179 days (approximately six months). The contributions may be repaid, but there is no requirement that they must be repaid. As of August 25, 2004, this bill was still in the Senate Finance Committee.¹⁵

There are a number of state and federal benefits available to veterans and their survivors. State veteran benefits and programs are summarized on Washington’s Department of Veterans Affairs website, www.dva.wa.gov. This website also provides links to the US Department of Veterans Affairs website, www.va.gov, which summarizes federal benefits. Most of the benefits described on these websites do not address rights and benefits under the Washington State Retirement Systems.

Limitations of USERRA and Possible Remedies

While USERRA provides for the restoration of retirement benefits upon re-employment of a member whose public employment was interrupted by military service, it does not address the retirement benefits that would have accrued to members who die while in active service or those who are unable to be re-employed due to a disability. Thus, for example, if a PERS 2 member would have reached ten years of service during the period of interruptive military service and dies in action, but had only nine years of service credit prior to leaving for active duty, the surviving spouse would be limited to a refund (based on nine years of service credit) and would not be able to receive a survivor benefit in the nature of a pension payment (based on ten years of service credit). This could be remedied by allowing the surviving spouse to pay the contributions that the member would have paid but for the military service, and allowing the service credit to accrue to the date of death.

Similarly, if the same member whose public employment was interrupted by military service becomes totally incapacitated for continued employment, that member's disability allowance would be based upon service credit up to the date he/she left employment for military service instead of to the date of disability. Allowing the disabled member to pay the member contributions and restore service credit up to the date of disability would be consistent with the federal policy of treating the veteran for vesting and benefit accrual purposes as if he/she had been continuously employed.

Both of the above-described "remedies" are being explored by the LEOFF 2 Board as possible legislative options for 2005.

Conclusion

There are two types of military service for which service credit is available: prior and interruptive. With respect to prior service, up to five years of service credit is available to members of two plans only: PERS 1 and WSP 1. Most aspects of interruptive service are handled the same in all Washington retirement plans, as all plans must meet the minimum requirements of USERRA. Members covered by USERRA may have their service credit reinstated for the periods of interruptive service upon re-employment and repayment of their member contributions.

Members who are unable to take advantage of USERRA because they die or become disabled while in service could be given similar treatment to those who are re-employed by allowing such members or their survivors to reinstate service credit to the date of death or disability by paying back the applicable member contributions.

Endnotes

1. For complete information about USERRA, see the USERRA Advisor, <http://www.dol.gov/elaws/userra.htm>.
2. For the complete text of this article, see http://seattlepi.nwsourc.com/national/164693_draft13.html.
3. For more information about military service credit in Washington see <http://www.drs.wa.gov>, the Department of Retirement Systems' website.
4. The provisions of the Seattle Municipal Code that govern the City Employees' Retirement System are found in Chapter 4.36 at <http://clerk.ci.seattle.wa.us>. See Section 4.36.124.
5. See links to these plans and the administrative code that governs them at <http://www.pers.state.or.us>.
6. For more information, see "Military Service and your PERSI Benefits" on the Idaho PERSI website, www.persi.state.id.us.
7. See the CalPERS website, www.calPERS.ca.gov.
8. Sources include the CalSTERS website, www.calSTERS.com and Lexis-Nexis, California Code Sections 22850 et seq.
9. See www.copera.org, "How Military Leave Affects Colorado PERA Members."
10. See Section 121.111 of the Florida statutes, <http://www.flsenate.gov/statutes>.
11. See www.ipers.org, "Buying Service - Veteran's Credit Buy-In."
12. See Sections 352.27, 352.275, 356.55, 354.53 and 354.33, Minnesota Statutes, www.revisor.leg.state.mn.us.
13. See <http://www.moga.state.mo.us/statutes/chapters/chap104.htm> for statutes governing military service credit in the Missouri State Employees'

Retirement System, Chapter 104.

14. See www.opers.org/aboutOPERS/membership/servicecredit.shtml and Sections 145.301 and 145.302, Ohio Revised Code, <http://onlinedocs.andersonpublishing.com>.
15. To track the status of HR 1779, visit <http://thomas.loc.gov>. This Act is cited as the “Guardsmen and Reservists Financial Relief Act of 2004.”

Select Committee on Pension Policy

Executive Committee Membership

(August 25, 2004)

Issue	The issue addressed in this report is whether a retiree representative should be added to the Executive Committee of the Select Committee on Pension Policy (SCPP).
Staff	Laura C. Harper, Senior Research Analyst/Legal 360-586-7616
Current Situation	<p>The composition of the Executive Committee is governed by statute. RCW 41.04.276(4) requires the SCPP to establish an Executive Committee of five members, including:</p> <ol style="list-style-type: none">1. the chairperson (a Senator in even-numbered years and a member of the House in odd-numbered years);2. the vice-chairperson (a member of the House in even-numbered years and a Senator in odd-numbered years);3. one active member or representative from an organization of active members of the state retirement systems;4. one employer representative or member of the state retirement systems; and5. one member from the directors of the department of retirement systems and office of financial management, serving in alternate years.

History

The original legislation creating the SCPP and requiring the establishment of an Executive Committee was passed in 2003, and has not been amended since that time.

Analysis

The SCPP consists of twenty members coming from six categories of membership: (1) four members of the senate, (2) four members of the house, (3) four active members, (4) two retired members, (5) four employer members and (6) the directors of the department of retirement systems and office of financial management.

The Executive Committee is a five-member body of the SCPP. As provided in SCPP Rule of Procedure No. 8, the Executive Committee sets the agendas for SCPP meetings, recommends actions to be taken by the full SCPP and performs all duties assigned to it by the SCPP. Currently, five of the six categories of SCPP membership are represented on the Executive Committee. There is no member of the Executive Committee from the sixth category, i.e. that of retirees.

Adding a retiree representative to the Executive Committee would require legislation due to the fact that the composition of the Executive Committee is governed by statute. See the attached copy of RCW 41.04.276 (4). If such legislation were to pass, the Executive Committee would then have six members. While there is a potential for deadlock in any body consisting of an even number of members, the Executive Committee has tended so far to act largely by consensus in making its recommendations to the SCPP. In any event, final actions are taken by the SCPP at large, which also has an even number of members.

Supporting Information

A copy of the statute setting forth the current membership of the SCPP and the Executive Committee is attached.

RCW 41.04.276**Select committee on pension policy -- Creation -- Membership -- Terms of office -- Staff support.**

(1) The select committee on pension policy is created. The select committee consists of:

(a) Four members of the senate appointed by the president of the senate, two of whom are members of the majority party and two of whom are members of the minority party. At least three of the appointees shall be members of the senate ways and means committee;

(b) Four members of the house of representatives appointed by the speaker, two of whom are members of the majority party and two of whom are members of the minority party. At least three of the appointees shall be members of the house of representatives appropriations committee;

(c) Four active members or representatives from organizations of active members of the state retirement systems appointed by the governor for staggered three-year terms, with no more than two appointees representing any one employee retirement system;

(d) Two retired members or representatives of retired members' organizations of the state retirement systems appointed by the governor for staggered three-year terms, with no two members from the same system;

(e) Four employer representatives of members of the state retirement systems appointed by the governor for staggered three-year terms; and

(f) The directors of the department of retirement systems and office of financial management.

(2)(a) The term of office of each member of the house of representatives or senate serving on the committee runs from the close of the session in which he or she is appointed until the close of the next regular session held in an odd-numbered year. If a successor is not appointed during a session, the member's term continues until the member is reappointed or a successor is appointed. The term of office for a committee member who is a member of the house of representatives or the senate who does not continue as a member of the senate or house of representatives ceases upon the convening of the next session of the legislature during the odd-numbered year following the member's appointment, or upon the member's resignation, whichever is earlier. All vacancies of positions held by members of the legislature must be filled from the same political party and from the same house as the member whose seat was vacated.

(b) Following the terms of members and representatives appointed under subsection (1)(d) of this section, the retiree positions shall be rotated to ensure that each system has an opportunity to have a retiree representative on the committee.

(3) The committee shall elect a chairperson and a vice-chairperson. The chairperson shall be a member of the senate in even-numbered years and a member of the house of representatives in odd-numbered years and the vice-chairperson shall be a member of the house of representatives in even-numbered years and a member of the senate in odd-numbered years.

(4) The committee shall establish an executive committee of five members, including the chairperson, the vice-chairperson, one member from subsection (1)(c) of this section, one member from subsection (1)(e) of this section, and one member from subsection (1)(f) of this section, with the directors of the department of retirement systems and the office of financial management serving in alternate years.

(5) Nonlegislative members of the select committee serve without compensation, but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(6) The office of state actuary under chapter 44.44 RCW shall provide staff and technical support to the committee.

[2003 c 295 § 1.]

Select Committee on Pension Policy

Post-retirement Employment Bill Comparison

(September 1, 2004)

Provision	HB 2640	DRAFT A	DRAFT B	DRAFT C	DRAFT D	DRAFT E
TRS Waiting Period # 1	1 month/ 867 hours	1 month/ 867 hours	1 month/ 867 hours	1 month/ 867 hours	1 month/ 867 hours	1 month/ 867 hours
TRS Waiting Period # 2	1.5 months/ 1500 hours	1.5 months/ 1500 hours	1.5 months/ 1500 hours	1.5 months/ 1500 hours	1.5 months/ 1500 hours	1.5 months/ 1500 hours
TRS Need	Justify	Justify	Justify	Justify	Justify	Justify
TRS Process	Established process	Established process	Established process	Established process	Established process	Established process
TRS Hiring Records	Employer retains	Employer retains	Employer retains	Employer retains	Employer retains	Employer retains
TRS Contract Right	867 hours	867 hours	867 hours	867 hours	867 hours	867 hours
TRS Annual Limit	1500 hours	1500 hours	1500 hours	1500 hours	1500 hours	1500 hours
TRS Cum. Limit Beyond 867 Annually	1900 hours after effective date of act	3165 hours after effective date of act	3165 hours after effective date of act	3165 hours after effective date of act	3165 hours after effective date of act	3165 hours after effective date of act
TRS Separation from Service	No oral or written agreements	<i>Current law - no written agreements</i>	No oral or written agreements	No oral or written agreements; "mere inquiries" OK	No oral or written agreements; "mere inquiries" OK	No oral or written agreements; "mere inquiries" OK
TRS Penalty	<i>Current law - felony</i>	<i>Current law - felony</i>	Gross Misdemeanor	Gross Misdemeanor	Gross Misdemeanor	Gross Misdemeanor
PERS Clarify Separation from Service	-	-	-	-	"Mere inquiries" OK	"Mere inquiries" OK
PERS Cum. Limit Beyond 867 Annually	<i>Current law - 1900 hours since 2001 act</i>	<i>Current law - 1900 hours since 2001 act</i>	<i>Current law - 1900 hours since 2001 act</i>	<i>Current law - 1900 hours since 2001 act</i>	3165 hours after effective date of act	3165 hours after effective date of act
PERS/TRS Employer Policy	-	-	-	-	-	Written policy required

David Pringle 786-7310
Appropriations
August 31, 2004

- REQUIRES INSTITUTES OF HIGHER EDUCATION TO REPORT THE RECLASSIFICATION OF POSITIONS OR EMPLOYEES FROM PERS AND TRS COVERAGE TO HIGHER ED. RETIREMENT PLAN COVERAGE TO THE DEPARTMENT OF RETIREMENT SYSTEMS.

- SPECIFIES THAT RCW 41.50.139 APPLIES TO THE REPORTS IN CHANGE OF PLAN COVERAGE BY INSTITUTIONS OF HIGHER EDUCATION TO DRS. THIS CURRENT LAW SECTION IMPOSES EMPLOYER LIABILITY FOR EXCEEDING POSTRETIREMENT EMPLOYMENT RESTRICTIONS, OR ERRONEOUSLY REPORTING SEPARATION FROM SERVICE.

1 AN ACT Relating to designating positions from coverage under the
2 public employees' retirement system and the teachers' retirement system
3 to coverage under higher education retirement annuity or retirement
4 income plans; amending RCW 28B.10.400 and 41.50.139.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1** RCW 28B.10.400 and 1979 ex.s. c 259 s 1 are each amended to
7 read as follows:

8 The boards of regents of the state universities, the boards of
9 trustees of the regional universities and of The Evergreen State
10 College, and the state board for community (~~college education~~) and
11 technical colleges are authorized and empowered:

12 (1) (a) To assist the faculties and such other employees as any such
13 board may designate in the purchase of old age annuities or retirement
14 income plans under such rules and regulations as any such board may
15 prescribe. County agricultural agents, home demonstration agents, 4-H
16 club agents, and assistant county agricultural agents paid jointly by
17 the Washington State University and the several counties shall be

1 deemed to be full time employees of the Washington State University for
2 the purposes hereof((7)).

3 (b) To assist in the effective management of the state retirement
4 systems each board shall report to the department of retirement systems
5 any change in designation or eligibility of a position or employee from
6 coverage by a retirement plan created in chapters 41.40 RCW or 41.32
7 RCW to coverage by an old age annuity or retirement income plan created
8 under this chapter. The report required by this subsection shall also
9 meet the requirements of RCW 41.50.139.

10 (2) To provide, under such rules and regulations as any such board
11 may prescribe for the faculty members or other employees under its
12 supervision, for the retirement of any such faculty member or other
13 employee on account of age or condition of health, retirement on
14 account of age to be not earlier than the sixty-fifth birthday:
15 PROVIDED, That such faculty member or such other employee may elect to
16 retire at the earliest age specified for retirement by federal social
17 security law: PROVIDED FURTHER, That any supplemental payment
18 authorized by subsection (3) of this section and paid as a result of
19 retirement earlier than age sixty-five shall be at an actuarially
20 reduced rate((7)).

21 (3) To pay to any such retired person or to his designated
22 beneficiary(s), each year after his retirement, a supplemental amount
23 which, when added to the amount of such annuity or retirement income
24 plan, or retirement income benefit pursuant to RCW 28B.10.415, received
25 by him or his designated beneficiary(s) in such year, will not exceed
26 fifty percent of the average annual salary paid to such retired person
27 for his highest two consecutive years of full time service under an
28 annuity or retirement income plan established pursuant to subsection
29 (1) of this section at an institution of higher education: PROVIDED,
30 HOWEVER, That if such retired person prior to his retirement elected a
31 supplemental payment survivors option, any such supplemental payments
32 to such retired person or his designated beneficiary(s) shall be at
33 actuarially reduced rates: PROVIDED FURTHER, That if a faculty member
34 or other employee of an institution of higher education who is a
35 participant in a retirement plan authorized by this section dies, or
36 has died before retirement but after becoming eligible for retirement

on account of age, the designated beneficiary(s) shall be entitled to receive the supplemental payment authorized by this subsection (3) of this section to which such designated beneficiary(s) would have been entitled had said deceased faculty member or other employee retired on the date of death after electing a supplemental payment survivors option: PROVIDED FURTHER, That for the purpose of this subsection, the designated beneficiary(s) shall be (a) the surviving spouse of the retiree; or, (b) with the written consent of such spouse, if any, such other person or persons as shall have an insurable interest in the retiree's life and shall have been nominated by written designation duly executed and filed with the retiree's institution of higher education.

Sec. 2 RCW 41.50.139 and 1997 c 254 s 16 are each amended to read as follows:

((~~(1)~~)) Retirement system employers shall elicit on a written form from all new employees as to their having been retired from a retirement system listed in RCW 41.50.030. Employers must report any retirees in their employ to the department, including public employees' retirement system and teachers' retirement system retirees now employed under the coverage of any higher education retirement plan authorized under RCW 28B.10.400.

(1) If a retiree works in excess of applicable postretirement employment restrictions and the employer failed to report the employment of the retiree, that employer is liable for the loss to the trust fund.

(2) If an employer erroneously reports to the department that an employee has separated from service such that a person receives a retirement allowance in contravention of the applicable retirement system statutes, the person's retirement status shall remain unaffected and the employer is liable for the resulting overpayments.

(3) Upon receipt of a billing from the department, the employer shall pay into the appropriate retirement system trust fund the amount of the overpayment plus interest as determined by the director. The employer's liability under this section shall not exceed the amount of overpayments plus interest received by the retiree within three years

1 of the date of discovery, except in the case of fraud. In the case of
2 fraud, the employer is liable for the entire overpayment plus interest.

--- **END** ---

DRAFT VERSION "E"

- ADDS THE SAME GENERAL HIRING QUALIFICATIONS TO TRS 1 AS WERE ADDED TO PERS 1.
- REQUIRES PERS AND TRS EMPLOYERS TO HIRE RETIREES PURSUANT TO A WRITTEN POLICY.
- MAKES THE LENGTH OF SEPARATION REQUIREMENT 45 DAYS FOR TRS, RATHER THAN THE 90 DAYS FOR PERS 1.
- ADDS A NEW SUBSECTION TO FALSE CLAIMS PROVISION IN TRS, MAKING APPLYING FOR RETIREMENT ALLOWANCE WITHOUT SEPARATING FROM SERVICE POTENTIALLY A GROSS MISDEMEANOR AS IN PERS.
- TRS SEPARATION FROM SERVICE DEFINITION IS MADE TO MATCH PERS, AND LANGUAGE IS ADDED TO BOTH PERS AND TRS CLARIFYING WHAT CONSTITUTES AN AGREEMENT.
- CUMULATIVE LIMIT OF 5 YEARS OF EXCESS OVER 867 (3165 HOURS) AFTER EFFECTIVE DATE OF ACT ADDED TO TRS, AND PERS CUMULATIVE LIMIT IS INCREASED TO 5 YEARS PROSPECTIVE FROM THE CURRENT LAW OF 3 YEARS.

1 AN ACT Relating to postretirement employment for members of the
2 public employees' retirement system plan 1 and the teachers' retirement
3 system plan 1; and amending RCW 41.32.010, 41.32.055, 41.32.570,
4 41.40.010, 41.40.037.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 41.32.010 and 2003 c 31 s 1 are each amended to read
7 as follows:

8 As used in this chapter, unless a different meaning is plainly
9 required by the context:

10 (1)(a) "Accumulated contributions" for plan 1 members, means the
11 sum of all regular annuity contributions and, except for the purpose of
12 withdrawal at the time of retirement, any amount paid under RCW
13 41.50.165(2) with regular interest thereon.

14 (b) "Accumulated contributions" for plan 2 members, means the sum
15 of all contributions standing to the credit of a member in the member's
16 individual account, including any amount paid under RCW 41.50.165(2),
17 together with the regular interest thereon.

1 (2) "Actuarial equivalent" means a benefit of equal value when
2 computed upon the basis of such mortality tables and regulations as
3 shall be adopted by the director and regular interest.

4 (3) "Annuity" means the moneys payable per year during life by
5 reason of accumulated contributions of a member.

6 (4) "Member reserve" means the fund in which all of the accumulated
7 contributions of members are held.

8 (5)(a) "Beneficiary" for plan 1 members, means any person in
9 receipt of a retirement allowance or other benefit provided by this
10 chapter.

11 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
12 in receipt of a retirement allowance or other benefit provided by this
13 chapter resulting from service rendered to an employer by another
14 person.

15 (6) "Contract" means any agreement for service and compensation
16 between a member and an employer.

17 (7) "Creditable service" means membership service plus prior
18 service for which credit is allowable. This subsection shall apply
19 only to plan 1 members.

20 (8) "Dependent" means receiving one-half or more of support from a
21 member.

22 (9) "Disability allowance" means monthly payments during
23 disability. This subsection shall apply only to plan 1 members.

24 (10)(a) "Earnable compensation" for plan 1 members, means:

25 (i) All salaries and wages paid by an employer to an employee
26 member of the retirement system for personal services rendered during
27 a fiscal year. In all cases where compensation includes maintenance
28 the employer shall fix the value of that part of the compensation not
29 paid in money.

30 (ii) For an employee member of the retirement system teaching in an
31 extended school year program, two consecutive extended school years, as
32 defined by the employer school district, may be used as the annual
33 period for determining earnable compensation in lieu of the two fiscal
34 years.

1 (iii) "Earnable compensation" for plan 1 members also includes the
2 following actual or imputed payments, which are not paid for personal
3 services:

4 (A) Retroactive payments to an individual by an employer on
5 reinstatement of the employee in a position, or payments by an employer
6 to an individual in lieu of reinstatement in a position which are
7 awarded or granted as the equivalent of the salary or wages which the
8 individual would have earned during a payroll period shall be
9 considered earnable compensation and the individual shall receive the
10 equivalent service credit.

11 (B) If a leave of absence, without pay, is taken by a member for
12 the purpose of serving as a member of the state legislature, and such
13 member has served in the legislature five or more years, the salary
14 which would have been received for the position from which the leave of
15 absence was taken shall be considered as compensation earnable if the
16 employee's contribution thereon is paid by the employee. In addition,
17 where a member has been a member of the state legislature for five or
18 more years, earnable compensation for the member's two highest
19 compensated consecutive years of service shall include a sum not to
20 exceed thirty-six hundred dollars for each of such two consecutive
21 years, regardless of whether or not legislative service was rendered
22 during those two years.

23 (iv) For members employed less than full time under written
24 contract with a school district, or community college district, in an
25 instructional position, for which the member receives service credit of
26 less than one year in all of the years used to determine the earnable
27 compensation used for computing benefits due under RCW 41.32.497,
28 41.32.498, and 41.32.520, the member may elect to have earnable
29 compensation defined as provided in RCW 41.32.345. For the purposes of
30 this subsection, the term "instructional position" means a position in
31 which more than seventy-five percent of the member's time is spent as
32 a classroom instructor (including office hours), a librarian, or a
33 counselor. Earnable compensation shall be so defined only for the
34 purpose of the calculation of retirement benefits and only as necessary
35 to insure that members who receive fractional service credit under RCW

1 41.32.270 receive benefits proportional to those received by members
2 who have received full-time service credit.

3 (v) "Earnable compensation" does not include:

4 (A) Remuneration for unused sick leave authorized under RCW
5 41.04.340, 28A.400.210, or 28A.310.490;

6 (B) Remuneration for unused annual leave in excess of thirty days
7 as authorized by RCW 43.01.044 and 43.01.041.

8 (b) "Earnable compensation" for plan 2 and plan 3 members, means
9 salaries or wages earned by a member during a payroll period for
10 personal services, including overtime payments, and shall include wages
11 and salaries deferred under provisions established pursuant to sections
12 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
13 shall exclude lump sum payments for deferred annual sick leave, unused
14 accumulated vacation, unused accumulated annual leave, or any form of
15 severance pay.

16 "Earnable compensation" for plan 2 and plan 3 members also includes
17 the following actual or imputed payments which, except in the case of
18 (b)(ii)(B) of this subsection, are not paid for personal services:

19 (i) Retroactive payments to an individual by an employer on
20 reinstatement of the employee in a position or payments by an employer
21 to an individual in lieu of reinstatement in a position which are
22 awarded or granted as the equivalent of the salary or wages which the
23 individual would have earned during a payroll period shall be
24 considered earnable compensation, to the extent provided above, and the
25 individual shall receive the equivalent service credit.

26 (ii) In any year in which a member serves in the legislature the
27 member shall have the option of having such member's earnable
28 compensation be the greater of:

29 (A) The earnable compensation the member would have received had
30 such member not served in the legislature; or

31 (B) Such member's actual earnable compensation received for
32 teaching and legislative service combined. Any additional
33 contributions to the retirement system required because compensation
34 earnable under (b)(ii)(A) of this subsection is greater than
35 compensation earnable under (b)(ii)(B) of this subsection shall be paid
36 by the member for both member and employer contributions.

1 (11) "Employer" means the state of Washington, the school district,
2 or any agency of the state of Washington by which the member is paid.

3 (12) "Fiscal year" means a year which begins July 1st and ends June
4 30th of the following year.

5 (13) "Former state fund" means the state retirement fund in
6 operation for teachers under chapter 187, Laws of 1923, as amended.

7 (14) "Local fund" means any of the local retirement funds for
8 teachers operated in any school district in accordance with the
9 provisions of chapter 163, Laws of 1917 as amended.

10 (15) "Member" means any teacher included in the membership of the
11 retirement system. Also, any other employee of the public schools who,
12 on July 1, 1947, had not elected to be exempt from membership and who,
13 prior to that date, had by an authorized payroll deduction, contributed
14 to the member reserve.

15 (16) "Membership service" means service rendered subsequent to the
16 first day of eligibility of a person to membership in the retirement
17 system: PROVIDED, That where a member is employed by two or more
18 employers the individual shall receive no more than one service credit
19 month during any calendar month in which multiple service is rendered.
20 The provisions of this subsection shall apply only to plan 1 members.

21 (17) "Pension" means the moneys payable per year during life from
22 the pension reserve.

23 (18) "Pension reserve" is a fund in which shall be accumulated an
24 actuarial reserve adequate to meet present and future pension
25 liabilities of the system and from which all pension obligations are to
26 be paid.

27 (19) "Prior service" means service rendered prior to the first date
28 of eligibility to membership in the retirement system for which credit
29 is allowable. The provisions of this subsection shall apply only to
30 plan 1 members.

31 (20) "Prior service contributions" means contributions made by a
32 member to secure credit for prior service. The provisions of this
33 subsection shall apply only to plan 1 members.

34 (21) "Public school" means any institution or activity operated by
35 the state of Washington or any instrumentality or political subdivision

1 thereof employing teachers, except the University of Washington and
2 Washington State University.

3 (22) "Regular contributions" means the amounts required to be
4 deducted from the compensation of a member and credited to the member's
5 individual account in the member reserve. This subsection shall apply
6 only to plan 1 members.

7 (23) "Regular interest" means such rate as the director may
8 determine.

9 (24) (a) "Retirement allowance" for plan 1 members, means monthly
10 payments based on the sum of annuity and pension, or any optional
11 benefits payable in lieu thereof.

12 (b) "Retirement allowance" for plan 2 and plan 3 members, means
13 monthly payments to a retiree or beneficiary as provided in this
14 chapter.

15 (25) "Retirement system" means the Washington state teachers'
16 retirement system.

17 (26) (a) "Service" for plan 1 members means the time during which a
18 member has been employed by an employer for compensation.

19 (i) If a member is employed by two or more employers the individual
20 shall receive no more than one service credit month during any calendar
21 month in which multiple service is rendered.

22 (ii) As authorized by RCW 28A.400.300, up to forty-five days of
23 sick leave may be creditable as service solely for the purpose of
24 determining eligibility to retire under RCW 41.32.470.

25 (iii) As authorized in RCW 41.32.065, service earned in an out-of-
26 state retirement system that covers teachers in public schools may be
27 applied solely for the purpose of determining eligibility to retire
28 under RCW 41.32.470.

29 (b) "Service" for plan 2 and plan 3 members, means periods of
30 employment by a member for one or more employers for which earnable
31 compensation is earned subject to the following conditions:

32 (i) A member employed in an eligible position or as a substitute
33 shall receive one service credit month for each month of September
34 through August of the following year if he or she earns earnable
35 compensation for eight hundred ten or more hours during that period and
36 is employed during nine of those months, except that a member may not

1 receive credit for any period prior to the member's employment in an
2 eligible position except as provided in RCW 41.32.812 and 41.50.132;

3 (ii) If a member is employed either in an eligible position or as
4 a substitute teacher for nine months of the twelve month period between
5 September through August of the following year but earns earnable
6 compensation for less than eight hundred ten hours but for at least six
7 hundred thirty hours, he or she will receive one-half of a service
8 credit month for each month of the twelve month period;

9 (iii) All other members in an eligible position or as a substitute
10 teacher shall receive service credit as follows:

11 (A) A service credit month is earned in those calendar months where
12 earnable compensation is earned for ninety or more hours;

13 (B) A half-service credit month is earned in those calendar months
14 where earnable compensation is earned for at least seventy hours but
15 less than ninety hours; and

16 (C) A quarter-service credit month is earned in those calendar
17 months where earnable compensation is earned for less than seventy
18 hours.

19 (iv) Any person who is a member of the teachers' retirement system
20 and who is elected or appointed to a state elective position may
21 continue to be a member of the retirement system and continue to
22 receive a service credit month for each of the months in a state
23 elective position by making the required member contributions.

24 (v) When an individual is employed by two or more employers the
25 individual shall only receive one month's service credit during any
26 calendar month in which multiple service for ninety or more hours is
27 rendered.

28 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
29 sick leave may be creditable as service solely for the purpose of
30 determining eligibility to retire under RCW 41.32.470. For purposes of
31 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
32 to two service credit months. Use of less than forty-five days of sick
33 leave is creditable as allowed under this subsection as follows:

34 (A) Less than eleven days equals one-quarter service credit month;

35 (B) Eleven or more days but less than twenty-two days equals one-
36 half service credit month;

1 (C) Twenty-two days equals one service credit month;

2 (D) More than twenty-two days but less than thirty-three days
3 equals one and one-quarter service credit month;

4 (E) Thirty-three or more days but less than forty-five days equals
5 one and one-half service credit month.

6 (vii) As authorized in RCW 41.32.065, service earned in an out-of-
7 state retirement system that covers teachers in public schools may be
8 applied solely for the purpose of determining eligibility to retire
9 under RCW 41.32.470.

10 (viii) The department shall adopt rules implementing this
11 subsection.

12 (27) "Service credit year" means an accumulation of months of
13 service credit which is equal to one when divided by twelve.

14 (28) "Service credit month" means a full service credit month or an
15 accumulation of partial service credit months that are equal to one.

16 (29) "Teacher" means any person qualified to teach who is engaged
17 by a public school in an instructional, administrative, or supervisory
18 capacity. The term includes state, educational service district, and
19 school district superintendents and their assistants and all employees
20 certificated by the superintendent of public instruction; and in
21 addition thereto any full time school doctor who is employed by a
22 public school and renders service of an instructional or educational
23 nature.

24 (30) "Average final compensation" for plan 2 and plan 3 members,
25 means the member's average earnable compensation of the highest
26 consecutive sixty service credit months prior to such member's
27 retirement, termination, or death. Periods constituting authorized
28 leaves of absence may not be used in the calculation of average final
29 compensation except under RCW 41.32.810(2).

30 (31) "Retiree" means any person who has begun accruing a retirement
31 allowance or other benefit provided by this chapter resulting from
32 service rendered to an employer while a member.

33 (32) "Department" means the department of retirement systems
34 created in chapter 41.50 RCW.

35 (33) "Director" means the director of the department.

1 (34) "State elective position" means any position held by any
2 person elected or appointed to statewide office or elected or appointed
3 as a member of the legislature.

4 (35) "State actuary" or "actuary" means the person appointed
5 pursuant to RCW 44.44.010(2).

6 (36) "Substitute teacher" means:

7 (a) A teacher who is hired by an employer to work as a temporary
8 teacher, except for teachers who are annual contract employees of an
9 employer and are guaranteed a minimum number of hours; or

10 (b) Teachers who either (i) work in ineligible positions for more
11 than one employer or (ii) work in an ineligible position or positions
12 together with an eligible position.

13 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,
14 through September 1, 1991, means a position which normally requires two
15 or more uninterrupted months of creditable service during September
16 through August of the following year.

17 (b) "Eligible position" for plan 2 and plan 3 on and after
18 September 1, 1991, means a position that, as defined by the employer,
19 normally requires five or more months of at least seventy hours of
20 earnable compensation during September through August of the following
21 year.

22 (c) For purposes of this chapter an employer shall not define
23 "position" in such a manner that an employee's monthly work for that
24 employer is divided into more than one position.

25 (d) The elected position of the superintendent of public
26 instruction is an eligible position.

27 (38) "Plan 1" means the teachers' retirement system, plan 1
28 providing the benefits and funding provisions covering persons who
29 first became members of the system prior to October 1, 1977.

30 (39) "Plan 2" means the teachers' retirement system, plan 2
31 providing the benefits and funding provisions covering persons who
32 first became members of the system on and after October 1, 1977, and
33 prior to July 1, 1996.

34 (40) "Plan 3" means the teachers' retirement system, plan 3
35 providing the benefits and funding provisions covering persons who

1 first become members of the system on and after July 1, 1996, or who
2 transfer under RCW 41.32.817.

3 (41) "Index" means, for any calendar year, that year's annual
4 average consumer price index, Seattle, Washington area, for urban wage
5 earners and clerical workers, all items compiled by the bureau of labor
6 statistics, United States department of labor.

7 (42) "Index A" means the index for the year prior to the
8 determination of a postretirement adjustment.

9 (43) "Index B" means the index for the year prior to index A.

10 (44) "Index year" means the earliest calendar year in which the
11 index is more than sixty percent of index A.

12 (45) "Adjustment ratio" means the value of index A divided by index
13 B.

14 (46) "Annual increase" means, initially, fifty-nine cents per month
15 per year of service which amount shall be increased each July 1st by
16 three percent, rounded to the nearest cent.

17 (47) "Member account" or "member's account" for purposes of plan 3
18 means the sum of the contributions and earnings on behalf of the member
19 in the defined contribution portion of plan 3.

20 (48) "Separation from service or employment" occurs when a person
21 has terminated all employment with an employer. Separation from
22 service or employment does not occur, and if claimed by an employer or
23 employee may be a violation of RCW 41.32.055, when an employee and
24 employer have a written or oral agreement to resume employment with the
25 same employer following termination. Mere expressions or inquiries
26 about post-retirement employment by an employer or employee that do not
27 constitute a commitment to reemploy the employee after retirement is
28 not an agreement under this subsection that prevents separation from
29 service occurring.

30 (49) "Employed" or "employee" means a person who is providing
31 services for compensation to an employer, unless the person is free
32 from the employer's direction and control over the performance of work.
33 The department shall adopt rules and interpret this subsection
34 consistent with common law.

1 **Sec. 2.** RCW 41.32.055 and 2003 c 53 s 218 are each amended to read
2 as follows:

3 (1) Any person who shall knowingly make false statements or shall
4 falsify or permit to be falsified any record or records of the
5 retirement system, except as specified in subsection (2) of this
6 section, in any attempt to defraud such system as a result of such act,
7 is guilty of a class B felony punishable according to chapter 9A.20
8 RCW.

9 (2) Any person who shall knowingly make false statements or shall
10 falsify or permit to be falsified any record or records of the
11 retirement systems related to a member's separation from service and
12 qualification for a retirement allowance under RCW 41.32.480 in any
13 attempt to defraud such system as a result of such act, is guilty of a
14 gross misdemeanor. Mere expressions or inquiries about post-retirement
15 employment by an employer or employee that do not constitute a
16 commitment to re-employ the employee after retirement do not constitute
17 an agreement under this subsection.

18 **Sec. 3.** RCW 41.32.570 and 2003 c 295 s 6 are each amended to read
19 as follows:

20 (1)(a) If a retiree enters employment with an employer sooner than
21 one calendar month after his or her accrual date, the retiree's monthly
22 retirement allowance will be reduced by five and one-half percent for
23 every seven hours worked during that month. This reduction will be
24 applied each month until the retiree remains absent from employment
25 with an employer for one full calendar month.

26 (b) The benefit reduction provided in (a) of this subsection will
27 accrue for a maximum of one hundred forty hours per month. Any monthly
28 benefit reduction over one hundred percent will be applied to the
29 benefit the retiree is eligible to receive in subsequent months.

30 (2) Except as provided in subsection (3) of this section, any
31 retired teacher or retired administrator who enters service in any
32 public educational institution in Washington state ((and who has
33 satisfied the break in employment requirement of subsection (1) of this
34 section)) at least one calendar month after his or her accrual date
35 shall cease to receive pension payments while engaged in such service,

1 after the retiree has rendered service for more than (~~one thousand~~
2 ~~five hundred~~) eight hundred sixty-seven hours in a school year.

3 (3) Any retired teacher or retired administrator who enters service
4 in any public educational institution in Washington state one and one-
5 half calendar months or more after his or her accrual date and:

6 (a) Is hired pursuant to a written policy into a position for which
7 the school board or other highest decision-making authority has
8 documented a justifiable need to hire a retiree into the position;

9 (b) Is hired through the established process for the position with
10 the approval of the school board or other highest decision-making
11 authority of the prospective employer;

12 (c) The employer retains records of the procedures followed and the
13 decisions made in hiring the retired teacher or retired administrator
14 and provides those records in the event of an audit; and

15 (d) The employee has not already rendered a cumulative total of
16 more than three thousand one hundred sixty-five hours of service while
17 receiving pension payments beyond an annual threshold of eight hundred
18 sixty-seven hours;

19 shall cease to receive pension payments while engaged in that service
20 after the retiree has rendered service for more than one thousand five
21 hundred hours in a school year. The cumulative total limitations under
22 this subsection apply prospectively after the effective date of this
23 act.

24 (4) When a retired teacher or administrator renders service beyond
25 eight hundred sixty-seven hours, the department shall collect from the
26 employer the applicable employer retirement contributions for the
27 entire duration of the member's employment during that fiscal year.

28 (3) The department shall collect and provide the state actuary with
29 information relevant to the use of this section for the select
30 committee on pension policy.

31 (4) The legislature reserves the right to amend or repeal this
32 section in the future and no member or beneficiary has a contractual
33 right to be employed for more than (~~five hundred twenty-five~~) eight
34 hundred sixty-seven hours per year without a reduction of his or her
35 pension.

1 **Sec. 4.** RCW 41.40.010 and 2004 c 242 s 53 are each amended to read
2 as follows:

3 As used in this chapter, unless a different meaning is plainly
4 required by the context:

5 (1) "Retirement system" means the public employees' retirement
6 system provided for in this chapter.

7 (2) "Department" means the department of retirement systems created
8 in chapter 41.50 RCW.

9 (3) "State treasurer" means the treasurer of the state of
10 Washington.

11 (4)(a) "Employer" for plan 1 members, means every branch,
12 department, agency, commission, board, and office of the state, any
13 political subdivision or association of political subdivisions of the
14 state admitted into the retirement system, and legal entities
15 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
16 term shall also include any labor guild, association, or organization
17 the membership of a local lodge or division of which is comprised of at
18 least forty percent employees of an employer (other than such labor
19 guild, association, or organization) within this chapter. The term may
20 also include any city of the first class that has its own retirement
21 system.

22 (b) "Employer" for plan 2 and plan 3 members, means every branch,
23 department, agency, commission, board, and office of the state, and any
24 political subdivision and municipal corporation of the state admitted
25 into the retirement system, including public agencies created pursuant
26 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August
27 31, 2000, school districts and educational service districts will no
28 longer be employers for the public employees' retirement system plan 2.

29 (5) "Member" means any employee included in the membership of the
30 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045
31 does not prohibit a person otherwise eligible for membership in the
32 retirement system from establishing such membership effective when he
33 or she first entered an eligible position.

34 (6) "Original member" of this retirement system means:

35 (a) Any person who became a member of the system prior to April 1,
36 1949;

1 (b) Any person who becomes a member through the admission of an
2 employer into the retirement system on and after April 1, 1949, and
3 prior to April 1, 1951;

4 (c) Any person who first becomes a member by securing employment
5 with an employer prior to April 1, 1951, provided the member has
6 rendered at least one or more years of service to any employer prior to
7 October 1, 1947;

8 (d) Any person who first becomes a member through the admission of
9 an employer into the retirement system on or after April 1, 1951,
10 provided, such person has been in the regular employ of the employer
11 for at least six months of the twelve-month period preceding the said
12 admission date;

13 (e) Any member who has restored all contributions that may have
14 been withdrawn as provided by RCW 41.40.150 and who on the effective
15 date of the individual's retirement becomes entitled to be credited
16 with ten years or more of membership service except that the provisions
17 relating to the minimum amount of retirement allowance for the member
18 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
19 apply to the member;

20 (f) Any member who has been a contributor under the system for two
21 or more years and who has restored all contributions that may have been
22 withdrawn as provided by RCW 41.40.150 and who on the effective date of
23 the individual's retirement has rendered five or more years of service
24 for the state or any political subdivision prior to the time of the
25 admission of the employer into the system; except that the provisions
26 relating to the minimum amount of retirement allowance for the member
27 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
28 apply to the member.

29 (7) "New member" means a person who becomes a member on or after
30 April 1, 1949, except as otherwise provided in this section.

31 (8)(a) "Compensation earnable" for plan 1 members, means salaries
32 or wages earned during a payroll period for personal services and where
33 the compensation is not all paid in money, maintenance compensation
34 shall be included upon the basis of the schedules established by the
35 member's employer.

1 (i) "Compensation earnable" for plan 1 members also includes the
2 following actual or imputed payments, which are not paid for personal
3 services:

4 (A) Retroactive payments to an individual by an employer on
5 reinstatement of the employee in a position, or payments by an employer
6 to an individual in lieu of reinstatement in a position which are
7 awarded or granted as the equivalent of the salary or wage which the
8 individual would have earned during a payroll period shall be
9 considered compensation earnable and the individual shall receive the
10 equivalent service credit;

11 (B) If a leave of absence is taken by an individual for the purpose
12 of serving in the state legislature, the salary which would have been
13 received for the position from which the leave of absence was taken,
14 shall be considered as compensation earnable if the employee's
15 contribution is paid by the employee and the employer's contribution is
16 paid by the employer or employee;

17 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
18 72.09.240;

19 (D) Compensation that a member would have received but for a
20 disability occurring in the line of duty only as authorized by RCW
21 41.40.038;

22 (E) Compensation that a member receives due to participation in the
23 leave sharing program only as authorized by RCW 41.04.650 through
24 41.04.670; and

25 (F) Compensation that a member receives for being in standby
26 status. For the purposes of this section, a member is in standby
27 status when not being paid for time actually worked and the employer
28 requires the member to be prepared to report immediately for work, if
29 the need arises, although the need may not arise.

30 (ii) "Compensation earnable" does not include:

31 (A) Remuneration for unused sick leave authorized under RCW
32 41.04.340, 28A.400.210, or 28A.310.490;

33 (B) Remuneration for unused annual leave in excess of thirty days
34 as authorized by RCW 43.01.044 and 43.01.041.

35 (b) "Compensation earnable" for plan 2 and plan 3 members, means
36 salaries or wages earned by a member during a payroll period for

1 personal services, including overtime payments, and shall include wages
2 and salaries deferred under provisions established pursuant to sections
3 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
4 shall exclude nonmoney maintenance compensation and lump sum or other
5 payments for deferred annual sick leave, unused accumulated vacation,
6 unused accumulated annual leave, or any form of severance pay.

7 "Compensation earnable" for plan 2 and plan 3 members also includes
8 the following actual or imputed payments, which are not paid for
9 personal services:

10 (i) Retroactive payments to an individual by an employer on
11 reinstatement of the employee in a position, or payments by an employer
12 to an individual in lieu of reinstatement in a position which are
13 awarded or granted as the equivalent of the salary or wage which the
14 individual would have earned during a payroll period shall be
15 considered compensation earnable to the extent provided above, and the
16 individual shall receive the equivalent service credit;

17 (ii) In any year in which a member serves in the legislature, the
18 member shall have the option of having such member's compensation
19 earnable be the greater of:

20 (A) The compensation earnable the member would have received had
21 such member not served in the legislature; or

22 (B) Such member's actual compensation earnable received for
23 nonlegislative public employment and legislative service combined. Any
24 additional contributions to the retirement system required because
25 compensation earnable under (b)(ii)(A) of this subsection is greater
26 than compensation earnable under (b)(ii)(B) of this subsection shall be
27 paid by the member for both member and employer contributions;

28 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
29 and 72.09.240;

30 (iv) Compensation that a member would have received but for a
31 disability occurring in the line of duty only as authorized by RCW
32 41.40.038;

33 (v) Compensation that a member receives due to participation in the
34 leave sharing program only as authorized by RCW 41.04.650 through
35 41.04.670; and

1 (vi) Compensation that a member receives for being in standby
2 status. For the purposes of this section, a member is in standby
3 status when not being paid for time actually worked and the employer
4 requires the member to be prepared to report immediately for work, if
5 the need arises, although the need may not arise.

6 (9)(a) "Service" for plan 1 members, except as provided in RCW
7 41.40.088, means periods of employment in an eligible position or
8 positions for one or more employers rendered to any employer for which
9 compensation is paid, and includes time spent in office as an elected
10 or appointed official of an employer. Compensation earnable earned in
11 full time work for seventy hours or more in any given calendar month
12 shall constitute one service credit month except as provided in RCW
13 41.40.088. Compensation earnable earned for less than seventy hours in
14 any calendar month shall constitute one-quarter service credit month of
15 service except as provided in RCW 41.40.088. Only service credit
16 months and one-quarter service credit months shall be counted in the
17 computation of any retirement allowance or other benefit provided for
18 in this chapter. Any fraction of a year of service shall be taken into
19 account in the computation of such retirement allowance or benefits.
20 Time spent in standby status, whether compensated or not, is not
21 service.

22 (i) Service by a state employee officially assigned by the state on
23 a temporary basis to assist another public agency, shall be considered
24 as service as a state employee: PROVIDED, That service to any other
25 public agency shall not be considered service as a state employee if
26 such service has been used to establish benefits in any other public
27 retirement system.

28 (ii) An individual shall receive no more than a total of twelve
29 service credit months of service during any calendar year. If an
30 individual is employed in an eligible position by one or more employers
31 the individual shall receive no more than one service credit month
32 during any calendar month in which multiple service for seventy or more
33 hours is rendered.

34 (iii) A school district employee may count up to forty-five days of
35 sick leave as creditable service solely for the purpose of determining
36 eligibility to retire under RCW 41.40.180 as authorized by RCW

1 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW
2 28A.400.300 is equal to two service credit months. Use of less than
3 forty-five days of sick leave is creditable as allowed under this
4 subsection as follows:

5 (A) Less than twenty-two days equals one-quarter service credit
6 month;

7 (B) Twenty-two days equals one service credit month;

8 (C) More than twenty-two days but less than forty-five days equals
9 one and one-quarter service credit month.

10 (b) "Service" for plan 2 and plan 3 members, means periods of
11 employment by a member in an eligible position or positions for one or
12 more employers for which compensation earnable is paid. Compensation
13 earnable earned for ninety or more hours in any calendar month shall
14 constitute one service credit month except as provided in RCW
15 41.40.088. Compensation earnable earned for at least seventy hours but
16 less than ninety hours in any calendar month shall constitute one-half
17 service credit month of service. Compensation earnable earned for less
18 than seventy hours in any calendar month shall constitute one-quarter
19 service credit month of service. Time spent in standby status, whether
20 compensated or not, is not service.

21 Any fraction of a year of service shall be taken into account in
22 the computation of such retirement allowance or benefits.

23 (i) Service in any state elective position shall be deemed to be
24 full time service, except that persons serving in state elective
25 positions who are members of the Washington school employees'
26 retirement system, teachers' retirement system, public safety
27 employees' retirement system, or law enforcement officers' and fire
28 fighters' retirement system at the time of election or appointment to
29 such position may elect to continue membership in the Washington school
30 employees' retirement system, teachers' retirement system, public
31 safety employees' retirement system, or law enforcement officers' and
32 fire fighters' retirement system.

33 (ii) A member shall receive a total of not more than twelve service
34 credit months of service for such calendar year. If an individual is
35 employed in an eligible position by one or more employers the
36 individual shall receive no more than one service credit month during

1 any calendar month in which multiple service for ninety or more hours
2 is rendered.

3 (iii) Up to forty-five days of sick leave may be creditable as
4 service solely for the purpose of determining eligibility to retire
5 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
6 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
7 to two service credit months. Use of less than forty-five days of sick
8 leave is creditable as allowed under this subsection as follows:

9 (A) Less than eleven days equals one-quarter service credit month;

10 (B) Eleven or more days but less than twenty-two days equals one-
11 half service credit month;

12 (C) Twenty-two days equals one service credit month;

13 (D) More than twenty-two days but less than thirty-three days
14 equals one and one-quarter service credit month;

15 (E) Thirty-three or more days but less than forty-five days equals
16 one and one-half service credit month.

17 (10) "Service credit year" means an accumulation of months of
18 service credit which is equal to one when divided by twelve.

19 (11) "Service credit month" means a month or an accumulation of
20 months of service credit which is equal to one.

21 (12) "Prior service" means all service of an original member
22 rendered to any employer prior to October 1, 1947.

23 (13) "Membership service" means:

24 (a) All service rendered, as a member, after October 1, 1947;

25 (b) All service after October 1, 1947, to any employer prior to the
26 time of its admission into the retirement system for which member and
27 employer contributions, plus interest as required by RCW 41.50.125,
28 have been paid under RCW 41.40.056 or 41.40.057;

29 (c) Service not to exceed six consecutive months of probationary
30 service rendered after April 1, 1949, and prior to becoming a member,
31 in the case of any member, upon payment in full by such member of the
32 total amount of the employer's contribution to the retirement fund
33 which would have been required under the law in effect when such
34 probationary service was rendered if the member had been a member
35 during such period, except that the amount of the employer's

1 contribution shall be calculated by the director based on the first
2 month's compensation earnable as a member;

3 (d) Service not to exceed six consecutive months of probationary
4 service, rendered after October 1, 1947, and before April 1, 1949, and
5 prior to becoming a member, in the case of any member, upon payment in
6 full by such member of five percent of such member's salary during said
7 period of probationary service, except that the amount of the
8 employer's contribution shall be calculated by the director based on
9 the first month's compensation earnable as a member.

10 (14)(a) "Beneficiary" for plan 1 members, means any person in
11 receipt of a retirement allowance, pension or other benefit provided by
12 this chapter.

13 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
14 in receipt of a retirement allowance or other benefit provided by this
15 chapter resulting from service rendered to an employer by another
16 person.

17 (15) "Regular interest" means such rate as the director may
18 determine.

19 (16) "Accumulated contributions" means the sum of all contributions
20 standing to the credit of a member in the member's individual account,
21 including any amount paid under RCW 41.50.165(2), together with the
22 regular interest thereon.

23 (17)(a) "Average final compensation" for plan 1 members, means the
24 annual average of the greatest compensation earnable by a member during
25 any consecutive two year period of service credit months for which
26 service credit is allowed; or if the member has less than two years of
27 service credit months then the annual average compensation earnable
28 during the total years of service for which service credit is allowed.

29 (b) "Average final compensation" for plan 2 and plan 3 members,
30 means the member's average compensation earnable of the highest
31 consecutive sixty months of service credit months prior to such
32 member's retirement, termination, or death. Periods constituting
33 authorized leaves of absence may not be used in the calculation of
34 average final compensation except under RCW 41.40.710(2).

35 (18) "Final compensation" means the annual rate of compensation
36 earnable by a member at the time of termination of employment.

1 (19) "Annuity" means payments for life derived from accumulated
2 contributions of a member. All annuities shall be paid in monthly
3 installments.

4 (20) "Pension" means payments for life derived from contributions
5 made by the employer. All pensions shall be paid in monthly
6 installments.

7 (21) "Retirement allowance" means the sum of the annuity and the
8 pension.

9 (22) "Employee" or "employed" means a person who is providing
10 services for compensation to an employer, unless the person is free
11 from the employer's direction and control over the performance of work.
12 The department shall adopt rules and interpret this subsection
13 consistent with common law.

14 (23) "Actuarial equivalent" means a benefit of equal value when
15 computed upon the basis of such mortality and other tables as may be
16 adopted by the director.

17 (24) "Retirement" means withdrawal from active service with a
18 retirement allowance as provided by this chapter.

19 (25) "Eligible position" means:

20 (a) Any position that, as defined by the employer, normally
21 requires five or more months of service a year for which regular
22 compensation for at least seventy hours is earned by the occupant
23 thereof. For purposes of this chapter an employer shall not define
24 "position" in such a manner that an employee's monthly work for that
25 employer is divided into more than one position;

26 (b) Any position occupied by an elected official or person
27 appointed directly by the governor, or appointed by the chief justice
28 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
29 compensation is paid.

30 (26) "Ineligible position" means any position which does not
31 conform with the requirements set forth in subsection (25) of this
32 section.

33 (27) "Leave of absence" means the period of time a member is
34 authorized by the employer to be absent from service without being
35 separated from membership.

1 (28) "Totally incapacitated for duty" means total inability to
2 perform the duties of a member's employment or office or any other work
3 for which the member is qualified by training or experience.

4 (29) "Retiree" means any person who has begun accruing a retirement
5 allowance or other benefit provided by this chapter resulting from
6 service rendered to an employer while a member.

7 (30) "Director" means the director of the department.

8 (31) "State elective position" means any position held by any
9 person elected or appointed to statewide office or elected or appointed
10 as a member of the legislature.

11 (32) "State actuary" or "actuary" means the person appointed
12 pursuant to RCW 44.44.010(2).

13 (33) "Plan 1" means the public employees' retirement system, plan
14 1 providing the benefits and funding provisions covering persons who
15 first became members of the system prior to October 1, 1977.

16 (34) "Plan 2" means the public employees' retirement system, plan
17 2 providing the benefits and funding provisions covering persons who
18 first became members of the system on and after October 1, 1977, and
19 are not included in plan 3.

20 (35) "Plan 3" means the public employees' retirement system, plan
21 3 providing the benefits and funding provisions covering persons who:

22 (a) First become a member on or after:

23 (i) March 1, 2002, and are employed by a state agency or institute
24 of higher education and who did not choose to enter plan 2; or

25 (ii) September 1, 2002, and are employed by other than a state
26 agency or institute of higher education and who did not choose to enter
27 plan 2; or

28 (b) Transferred to plan 3 under RCW 41.40.795.

29 (36) "Index" means, for any calendar year, that year's annual
30 average consumer price index, Seattle, Washington area, for urban wage
31 earners and clerical workers, all items, compiled by the bureau of
32 labor statistics, United States department of labor.

33 (37) "Index A" means the index for the year prior to the
34 determination of a postretirement adjustment.

35 (38) "Index B" means the index for the year prior to index A.

1 (39) "Index year" means the earliest calendar year in which the
2 index is more than sixty percent of index A.

3 (40) "Adjustment ratio" means the value of index A divided by index
4 B.

5 (41) "Annual increase" means, initially, fifty-nine cents per month
6 per year of service which amount shall be increased each July 1st by
7 three percent, rounded to the nearest cent.

8 (42) "Separation from service" occurs when a person has terminated
9 all employment with an employer. Separation from service or employment
10 does not occur, and if claimed by an employer or employee may be a
11 violation of RCW 41.40.055, when an employee and employer have a
12 written or oral agreement to resume employment with the same employer
13 following termination. Mere expressions or inquiries about post-
14 retirement employment by an employer or employee that do not constitute
15 a commitment to re-employ the employee after retirement is not an
16 agreement under this subsection that prevents separation from service
17 from occurring.

18 (43) "Member account" or "member's account" for purposes of plan 3
19 means the sum of the contributions and earnings on behalf of the member
20 in the defined contribution portion of plan 3.

21 **Sec. 5.** RCW 41.40.037 and 2003 c 412 s 5 are each amended to read
22 as follows: *(Because of PSERS, Effective until July 1, 2006.)*.

23 (1) (a) If a retiree enters employment with an employer sooner than
24 one calendar month after his or her accrual date, the retiree's monthly
25 retirement allowance will be reduced by five and one-half percent for
26 every eight hours worked during that month. This reduction will be
27 applied each month until the retiree remains absent from employment
28 with an employer for one full calendar month.

29 (b) The benefit reduction provided in (a) of this subsection will
30 accrue for a maximum of one hundred sixty hours per month. Any benefit
31 reduction over one hundred percent will be applied to the benefit the
32 retiree is eligible to receive in subsequent months.

1 (2) (a) Except as provided in (b) of this subsection, a retiree from
2 plan 1 who enters employment with an employer at least one calendar
3 month after his or her accrual date may continue to receive pension
4 payments while engaged in such service for up to eight hundred sixty-
5 seven hours of service in a calendar year without a reduction of
6 pension.

7 (b) A retiree from plan 1 who enters employment with an employer at
8 least three calendar months after his or her accrual date and:

9 (i) Is hired into a position for which the employer has documented
10 a justifiable need to hire a retiree into the position;

11 (ii) Is hired through the established process for the position with
12 the approval of: A school board for a school district; the chief
13 executive officer of a state agency employer; the secretary of the
14 senate for the senate; the chief clerk of the house of representatives
15 for the house of representatives; the secretary of the senate and the
16 chief clerk of the house of representatives jointly for the joint
17 legislative audit and review committee, the legislative transportation
18 committee, the joint committee on pension policy, the legislative
19 evaluation and accountability program, the legislative systems
20 committee, and the statute law committee; or according to rules adopted
21 for the rehiring of retired plan 1 members for a local government
22 employer;

23 (iii) The employer retains records of the procedures followed and
24 decisions made in hiring the retiree, and provides those records in the
25 event of an audit; and

26 (iv) The employee has not already rendered a cumulative total of
27 more than ~~((one thousand nine hundred))~~ three thousand one hundred and
28 sixty-five hours of service while in receipt of pension payments beyond
29 an annual threshold of eight hundred sixty-seven hours;

30 shall cease to receive pension payments while engaged in that service
31 after the retiree has rendered service for more than one thousand five
32 hundred hours in a calendar year. The ~~((one thousand nine hundred~~
33 ~~hour))~~ cumulative total limitations under this subsection
34 ~~((applies))~~ apply prospectively ~~((to those retiring after July 27, 2003,~~
35 ~~and retroactively to those who retired prior to July 27, 2003, and~~

1 ~~shall be calculated from the date of retirement))~~ after the effective
2 date of this act.

3 (c) When a plan 1 member renders service beyond eight hundred
4 sixty-seven hours, the department shall collect from the employer the
5 applicable employer retirement contributions for the entire duration of
6 the member's employment during that calendar year.

7 (d) A retiree from plan 2 or plan 3 who has satisfied the break in
8 employment requirement of subsection (1) of this section may work up to
9 eight hundred sixty-seven hours in a calendar year in an eligible
10 position, as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as
11 a fire fighter or law enforcement officer, as defined in RCW 41.26.030,
12 without suspension of his or her benefit.

13 (3) If the retiree opts to reestablish membership under RCW
14 41.40.023(12), he or she terminates his or her retirement status and
15 becomes a member. Retirement benefits shall not accrue during the
16 period of membership and the individual shall make contributions and
17 receive membership credit. Such a member shall have the right to again
18 retire if eligible in accordance with RCW 41.40.180. However, if the
19 right to retire is exercised to become effective before the member has
20 rendered two uninterrupted years of service, the retirement formula and
21 survivor options the member had at the time of the member's previous
22 retirement shall be reinstated.

23 (4) The department shall collect and provide the state actuary with
24 information relevant to the use of this section for the select
25 committee on pension policy.

26 (5) The legislature reserves the right to amend or repeal this
27 section in the future and no member or beneficiary has a contractual
28 right to be employed for more than five months in a calendar year
29 without a reduction of his or her pension.

30 **Sec. 6.** RCW 41.40.037 and 2004 c 242 s 63 are each amended to read
31 as follows: *(Because of PSERS, Effective July 1, 2006.)*.

32 (1) (a) If a retiree enters employment with an employer sooner than
33 one calendar month after his or her accrual date, the retiree's monthly
34 retirement allowance will be reduced by five and one-half percent for
35 every eight hours worked during that month. This reduction will be

1 applied each month until the retiree remains absent from employment
2 with an employer for one full calendar month.

3 (b) The benefit reduction provided in (a) of this subsection will
4 accrue for a maximum of one hundred sixty hours per month. Any benefit
5 reduction over one hundred percent will be applied to the benefit the
6 retiree is eligible to receive in subsequent months.

7 (2) (a) Except as provided in (b) of this subsection, a retiree from
8 plan 1 who enters employment with an employer at least one calendar
9 month after his or her accrual date may continue to receive pension
10 payments while engaged in such service for up to eight hundred sixty-
11 seven hours of service in a calendar year without a reduction of
12 pension.

13 (b) A retiree from plan 1 who enters employment with an employer at
14 least three calendar months after his or her accrual date and:

15 (i) Is hired into a position for which the employer has documented
16 a justifiable need to hire a retiree into the position;

17 (ii) Is hired pursuant to a written policy through the established
18 process for the position with the approval of: A school board for a
19 school district; the chief executive officer of a state agency
20 employer; the secretary of the senate for the senate; the chief clerk
21 of the house of representatives for the house of representatives; the
22 secretary of the senate and the chief clerk of the house of
23 representatives jointly for the joint legislative audit and review
24 committee, the legislative transportation committee, the joint
25 committee on pension policy, the legislative evaluation and
26 accountability program, the legislative systems committee, and the
27 statute law committee; or according to rules adopted for the rehiring
28 of retired plan 1 members for a local government employer;

29 (iii) The employer retains records of the procedures followed and
30 decisions made in hiring the retiree, and provides those records in the
31 event of an audit; and

32 (iv) The employee has not already rendered a cumulative total of
33 more than (~~one thousand nine hundred~~) three thousand one hundred and
34 sixty-five hours of service while in receipt of pension payments beyond
35 an annual threshold of eight hundred sixty-seven hours;

1 shall cease to receive pension payments while engaged in that service
2 after the retiree has rendered service for more than one thousand five
3 hundred hours in a calendar year. The ~~((one thousand nine hundred~~
4 ~~hour))~~ cumulative total limitations under this subsection
5 ~~((applies))~~ apply prospectively ~~((to those retiring after July 27, 2003,~~
6 ~~and retroactively to those who retired prior to July 27, 2003, and~~
7 ~~shall be calculated from the date of retirement))~~ after the effective
8 date of this act.

9 (c) When a plan 1 member renders service beyond eight hundred
10 sixty-seven hours, the department shall collect from the employer the
11 applicable employer retirement contributions for the entire duration of
12 the member's employment during that calendar year.

13 (d) A retiree from plan 2 or plan 3 who has satisfied the break in
14 employment requirement of subsection (1) of this section may work up to
15 eight hundred sixty-seven hours in a calendar year in an eligible
16 position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or
17 41.40.010, or as a fire fighter or law enforcement officer, as defined
18 in RCW 41.26.030, without suspension of his or her benefit.

19 (3) If the retiree opts to reestablish membership under RCW
20 41.40.023(12), he or she terminates his or her retirement status and
21 becomes a member. Retirement benefits shall not accrue during the
22 period of membership and the individual shall make contributions and
23 receive membership credit. Such a member shall have the right to again
24 retire if eligible in accordance with RCW 41.40.180. However, if the
25 right to retire is exercised to become effective before the member has
26 rendered two uninterrupted years of service, the retirement formula and
27 survivor options the member had at the time of the member's previous
28 retirement shall be reinstated.

29 (4) The department shall collect and provide the state actuary with
30 information relevant to the use of this section for the select
31 committee on pension policy.

32 (5) The legislature reserves the right to amend or repeal this
33 section in the future and no member or beneficiary has a contractual
34 right to be employed for more than five months in a calendar year
35 without a reduction of his or her pension.

--- END ---

Select Committee on Pension Policy

October 19 Meeting Planner

(August 9, 2004)

EXECUTIVE COMMITTEE AGENDA

- (A) Purchasing Power/Gain-sharing/Rule of 90 Subgroup Report
- (B) Opt In/Opt Out, Age 70 1/2 Subgroup Report
- (C)

FULL COMMITTEE AGENDA

- (1) Age 65 Retirement – Options
- (2) LEOFF 1 Issues
- (3)
- (4)

RICHARD D. FORD
925 FOURTH AVENUE, SUITE 2900
SEATTLE, WASHINGTON 98104-1158

RECEIVED

AUG 18 2004

Office of
The State Actuary

August 16, 2004

Honorable Gary Locke
Governor
State of Washington
P.O. Box 40002
Olympia, WA 98504-0002

Dear Gary:

I am writing to thank you for your appointing me to serve as a member of the Washington State Transportation Commission. I am looking forward to the challenges of the position. I indicated to your staff I would resign from the Select Committee on Pension Policy if appointed to the Transportation Commission. Please consider this letter as my "letter of resignation" from the Select Committee. I am sending a copy of this letter to the Chair of the Select Committee and the State Actuary so they may consult with your office as appropriate.

Very truly yours,



RDF:lmj

cc: Honorable Karen Fraser, Chair, Select Committee on Pension Policy
Matt Smith, State Actuary
Dale Stedman, Chair, Washington State Transportation Commission

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Select Committee on Pension Policy

State Actuary Appointment Committee

(September 3, 2004)

Members:

Senator Joseph Zarelli
Senator Margarita Prentice
Representative Helen Sommers
Representative Barry Sehlin
SCPP Members:
 Senator Fraser
 Representative Conway
 Richard Ford
 Leland Geoke

SHB 1204 (Ch. 295, L of 03) – Creation of SCPP

“Sec. 5. The select committee on pension policy has the following powers and duties: ...

- (3) **Consult with the chair and vice-chair on appointing members to the state actuary appointment committee upon the convening of the state actuary appointment committee....”**

“Sec. 13.

(1) The state actuary appointment committee is created. The committee shall consist of: (a) The chair and ranking minority member of the house of representatives appropriations committee and the chair and ranking minority member of the senate ways and means committee; and **(b) four members of the select committee on pension policy appointed jointly by the chair and vice-chair of the select committee, at least one member representing state retirement systems active or retired members, and one member representing state retirement system employers.**

(2) The state actuary appointment committee shall be jointly chaired by the chair of the house of representatives appropriations committee and the chair of the senate ways and means committee.

(3) The state actuary appointment committee shall appoint or remove the state actuary by a two-thirds vote of the committee. When considering the appointment or removal of the state actuary, the appointment committee shall consult with the director of the department of retirement systems, the director of the office of financial management, and other interested parties.

(4) The state actuary appointment committee shall be convened by the chairs of the house of representatives appropriations committee and the senate ways and means committee (a) whenever the position of state actuary becomes vacant, or (b) upon the written request of any four members of the appointment committee.

“Sec. 1. RCW 44.44.030 and 2001 c 259 s 11 are each amended to read as follows:

(1) Subject to RCW 44.04.260, the state actuary shall have the authority to select and employ such research, technical, clerical personnel, and consultants as the actuary deems necessary, **whose salaries shall be fixed by the actuary and approved by the ((joint committee on pension policy)) the state actuary appointment committee**, and who shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.”

Select Committee on Pension Policy

Actuary Performance Evaluation

(November 12, 2003)

The State Actuary Appointment Committee has the statutory authority to review the performance and make adjustments to the pay of the State Actuary. The State Actuary Appointment Committee consists of:

- Chairs and ranking minority members of the Senate Ways and Means Committee and the House Appropriations Committee; plus
- Four members of the Select Committee on Pension Policy (SCPP) appointed jointly by the Chair and Vice Chair of the SCPP.

The SCPP Executive Committee will conduct a review of the State Actuary's performance and relay it to the State Actuary Appointment Committee with recommendations for pay adjustments, as deemed appropriate. The review will take place at least once every two employment anniversaries of the State Actuary or as requested by the Chair of the SCPP.

In conducting the review, the Executive Committee of the SCPP or their designee will:

- Review the statutory responsibilities of the Office of the State Actuary (OSA);
- Request a self-performance evaluation, including future goals and development activities from the State Actuary;
- Develop a list of feedback sources which may include OSA staff, SCPP members, Directors of the Department of Retirement Systems and Office of Financial Management, Chairs and/or staff of the legislative fiscal committees and the Executive Director of the LEOFF 2 Board;
- Solicit written feedback from feedback sources;
- Meet with the State Actuary to share feedback and overall performance evaluation.
- Relay the results of the performance evaluation and any recommendations regarding performance and/or pay adjustments to the members of the State Actuary Appointment Committee.